

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 15, 2009. At the time of the Office Action, Claims 10-18 were pending in this Application. Claims 10-18 were rejected. Claims 1-9 were previously cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 10-18 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner states that the limitation “prior to any subsequent user input” has no support in the limitation. In particular, the Examiner states that the limitation specifically states in paragraphs [0024-0027] that a speaker must repeat the utterance and select an action. Applicant agrees that paragraph [0024-0027] explain that in one embodiment the system can be designed this way. However, the specification discloses more than this embodiment. For example, in paragraph [0028] the specification states that steps 6-8 can be omitted. Moreover, the specification states that the assignment of a new command to the unrecognized voice pattern or utterance takes place in a fifth step 5 of the method. This step follows immediately if a voice pattern is not recognized as claimed in independent claim 1. Paragraph [0021] of the present specification discloses furthermore as another alternative the option to return to step 1. Hence, Applicant believes that the previous amendment is fully supported by the specification.

Rejections under 35 U.S.C. §103

Claims 10-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,832,429 issued to Michele B. Gammel et al. (“*Gammel*”), in view of U.S. Patent 5,852,801 issued to Hsiao-Wuen Hon et al. (“*Hon*”) and further in view of U.S Patent No. 6,587,824 issued to Charles Allen Everhart et al. (“*Everhart*”). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580

(C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner admitted that *Gammel and Hon* do not disclose to provide an opportunity to add a new command prior to any subsequent user input. (Office Action, page 5, first full para.) However, the Examiner stated that *Everhart* allegedly discloses to add a new command prior to any subsequent user input. Applicant respectfully disagrees. *Everhart* clearly teaches to perform a comparison of a spoken utterance with patterns assigned to predefined car commands. (*Everhardt*, col. 2, ll. 27-55) The *Everhart* system then list the closest matches to the user and gives the user an option to select one of the predefined commands. (*Everhardt*, col. 2, ll. 46-50) Once the user selects one of these predefined commands, the system adapts its recognition system. (*Everhardt*, col. 2, ll. 50-54) Nowhere in *Everhardt* can anything be found about assigning a so far unknown utterance to a new command. Hence, a combination of *Everhardt* with any of the other cited references will clearly not lead to the claimed subject matter. Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes no fees are due; however, should the Commissioner deem that any additional fees are due, including any fees for any additional extensions of time, the Commissioner is hereby authorized to debit said fees from deposit account number 50-4871.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.457.2000.

Respectfully submitted,
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